

REQUIRED CLEARANCES NEAR RAILROAD TRACKS



**Compiled by the
Rail Safety Section**

Bureau of Urban and Public Transportation



This brochure can be made available in alternative formats such as braille, large print or audio tape by calling M•DOT's Freight Services and Safety Division at (517) 373-6494.

PURPOSE OF THIS BROCHURE

M•DOT'S Freight Services and Safety Division is responsible for administering the provisions of Act 354 of 1993, also known as the "Railroad Code of 1993." This includes governing clearances in the vicinity of railroad tracks (Section 339) and safe space along railroad rights of way (Section 402). In the course of investigating complaints filed under these laws, staff of the Freight Services and Safety Division has frequently identified instances in which it appears that unawareness or misunderstanding of the requirements of this and previous laws, has resulted in the construction of structures that do not comply with the statutory provisions.

This brochure has been prepared to provide information and clarification concerning the provisions of this law. By increasing awareness and understanding concerning this law, the Freight Services and Safety Division is attempting to increase safety for railroad employees, and to reduce instances in which it is necessary to require corrective actions after construction is completed.

CLOSE CLEARANCES IN THE VICINITY OF RAILROAD TRACKS THE RAILROAD CODE OF 1993

(Act No. 354 of 1993)

PURPOSE AND SCOPE OF SECTION 339

Section 339 of the Railroad Code of 1993 (P.A. 354), was enacted by the Michigan Legislature to provide for safety of railroad employees. For this purpose, Section 339 of the Railroad Code:

- establishes minimum clearances at which bridges, structures, and other obstructions may be constructed or placed over or adjacent to railroad tracks;
- prescribes the minimum spacing between adjacent railroad tracks;
- establishes the process by which applications for less-than-standard clearances may be considered and approved by the Michigan Department of Transportation;

- prescribes penalties for violations of the act.

Section 339 of the Railroad Code is applicable to all individuals, partnerships, associations, and corporations engaged in the operation of a railroad. The provisions of the act also apply to all individuals, partnerships, associations, and corporations that own, lease, or otherwise have jurisdiction or control of land on which, or adjacent to which, railroad tracks or sidetracks are located and operated.

MINIMUM CLEAR SPACE REQUIREMENTS FOR BRIDGES, STRUCTURES, POLES, AND OTHER OBSTRUCTIONS

Unless authorized by written approval of M•DOT's Freight Services and Safety Division, all bridges, structures, poles, or obstructions must be located:

- at least 8 feet 6 inches (2.591 meters) from either side of a perpendicular extending through the center line of a railroad track with a radius of not less than 400 feet (121.92 meters) lateral curvature;
- at least 9 feet (2.743 meters) from either side of a perpendicular extending through the center line of a railroad track with a radius of less than 400 feet (121.92 meters) lateral curvature;
- at least 22 feet 6 inches (6.858 meters) above the top of the rail head.

Diagrams of the minimum clearances required by Section 339 are included in this brochure (Appendix I and Appendix II).

The above clear space requirements do not, however, apply to the following: temporarily-placed materials for railroad construction, maintenance or repair; temporary car loading or unloading devices which are removed when not in use or are secured so as to maintain the required clearances; and structures and materials that are below grade level.

SIGNAGE FOR LESS THAN STANDARD CLEARANCES

The warning sign for LESS THAN STANDARD CLEARANCES shall have black letters upon a white reflectorized background, and shall contain the words—"WARNING—CLOSE CLEARANCE" or words of a similar purport, as recommended by the inspector, with letters at least 3 inches (76 millimeters) in height.

MINIMUM DISTANCES BETWEEN PARALLEL AND ADJACENT RAILROAD TRACKS

Also in accordance with Section 339 of the Railroad Code, a distance of at least 14 feet (4.267 meters) from the center line of each railroad track must be maintained between parallel railroad tracks or adjacent sidetracks, unless authorized by written approval of M•DOT's Freight Services and Safety Division.

One exception to this particular requirement provides that the distance between adjacent tracks may be diminished to the extent necessary for construction of crossings, crossovers, turnouts, and switches.

In addition, Section 339 does not change the distance requirements between any railroad tracks or sidetracks existing on or before January 14, 1994.

APPLICATIONS FOR VARIANCES FROM CLEARANCES PRESCRIBED BY THIS ACT

In order to comply with Section 339 of the Railroad Code, persons desiring to construct within a less-than-standard clearance must file an application for a variance. While M•DOT may grant variances, its authority to do so is limited to instances in which the agency determines that:

- compliance with the prescribed distances would be unreasonable, unnecessary, or impracticable; and
- a variance from the prescribed distances will not create a condition hazardous to railroad employees.

Applications for Authority for Variances from Standard Clearances ([Form No. 1401](#)) can be obtained through M•DOT's Freight Services and Safety Division. These forms must be completed in triplicate and must be filed with three drawings depicting the less-than-standard clearance desired. A copy of [this form is included in this brochure \(Appendix III\)](#).

After a properly completed application for a variance has been filed, the Freight Services and Safety Division schedules an inspection. Notices of the inspection are mailed to the applicant and other interested persons, including railroad, union, and industry representatives.

At the inspection, details concerning the desired variance are thoroughly reviewed. Following the necessary analysis, a report is issued to the applicant and other interested persons. This report indicates whether the variance is feasible and outlines any safety measures that must be implemented and verified prior to final approval of the variance.

If interested persons file objections to the conclusions of the inspection report, final action concerning an application for a variance may necessitate a hearing before the department's Administrative Law Judge.

PENALTIES FOR VIOLATION OF SECTION 339

A person subject to this act, who violates Section 339 shall be liable for a civil penalty of not more than \$1,500 to be collected by the prosecuting attorney of the county where the violation occurred. If a person thereafter fails to correct a violation of this section when ordered by the department, the same person shall be liable for the same fine, to be collected as provided above for each calendar days delay thereafter in his or her failure to correct the violation of this section.

SAFE SPACE ALONG

RAILROAD RIGHTS-OF-WAY THE RAILROAD CODE OF 1993

(Act No. 354 of 1993)

PURPOSE AND SCOPE OF SECTION 402

In addition to Section 339, Section 402 of the Railroad Code of 1993 (P.A. 354) was enacted by the Michigan Legislature to further provide for the safety of railroad employees when walking on railroad rights-of-way in the performance of their duties.

The provisions of Section 402 of the Railroad Code are applicable to all individuals, partnerships, or corporations that are engaged in the operation of a railroad. Also, this applies to all individuals, partnerships, or corporations that own, lease, or otherwise have jurisdiction or control of land on which, or adjacent to which, railroad tracks or sidetracks are located and operated.

CONDITIONS PROHIBITED BY SECTION 402

Section 402 of the Railroad Code provides that no person shall knowingly permit any scrap iron, lumber, debris, vegetation exceeding a height of four inches (102 millimeters), marked unevenness of terrain, or any material or condition which unreasonably endangers any employee, to remain or continue in the "safe space" over which the person has full or partial legal control.

"Safe space," as defined in Section 402, means the area encompassed within the following distances:

- from the actual grade level to a distance of 22 feet 6 inches (6.858 meters) above the top of the rail head.
- a distance of 8 feet 6 inches (2.591 meters) on both sides of a perpendicular from the center line of a railroad track with a radius of not less than 400 feet (121.92 meters) lateral curvature;
- a distance of 9 feet (2.743 meters) on both sides of a perpendicular from the center line of a railroad track with a radius of less than 400 feet (121.92 meters) lateral curvature.

A diagram of the "safe space" area defined by the act is included in this brochure (Appendix I).

INSPECTIONS CONCERNING ALLEGED VIOLATIONS OF SECTION 402

Section 402 of the Railroad Code requires that M•DOT's Freight Services and Safety Division conduct inspections in response to written complaints from the following:

- any railroad employee;
- a union whose members are affected by a violation of Section 402;
- any person, including a common carrier, that is affected by a violation of Section 402.

In the absence of a complaint, the Freight Services and Safety Division may also conduct inspections to determine whether Section 402 of the Railroad Code is being violated.

A Proposed Order concerning inspections conducted under the provisions of the act is issued to all parties of interest. If objections to the Proposed Order are not filed within 30 days after its issuance, the Proposed Order becomes the order of the department. Any party opposing the Proposed Order issued as a result of an inspection may file a request for a hearing before the department's Administrative Law Judge.

COMPLIANCE ENFORCEMENT

Any person aggrieved by noncompliance with a department order concerning a violation of Section 402 of the Railroad Code may file a petition in circuit court for a court order to enforce compliance.

**TO OBTAIN [APPLICATION FORMS](#)
OR FOR ADDITIONAL INFORMATION**

You may contact M•DOT's Freight Services and Safety Division as follows:

By mail: Michigan Department of Transportation
Freight Services and Safety Division
P.O. Box 30050
Lansing, Michigan 48909

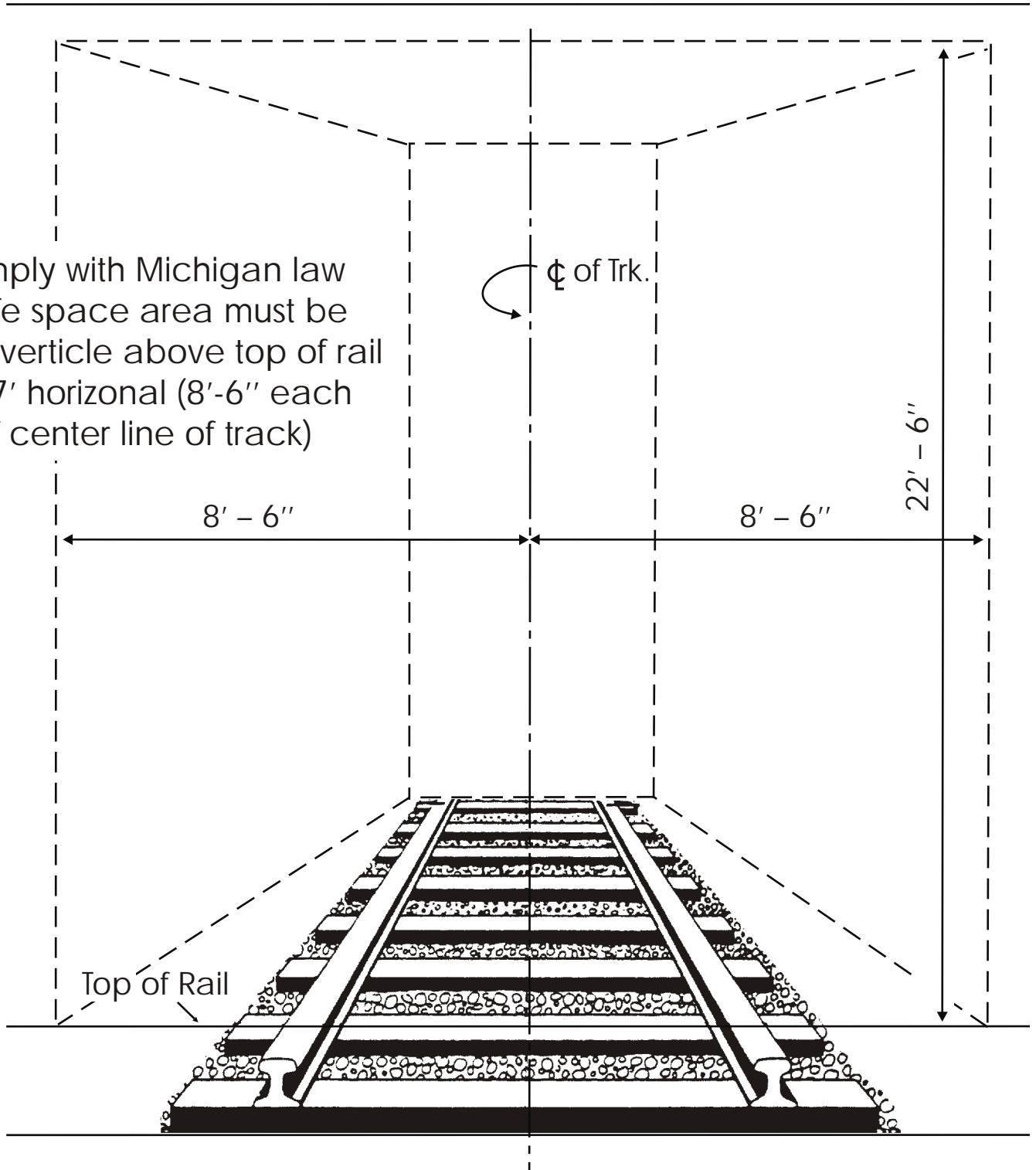
By telephone: (517) 373-6494

By fax: (517) 373-0856

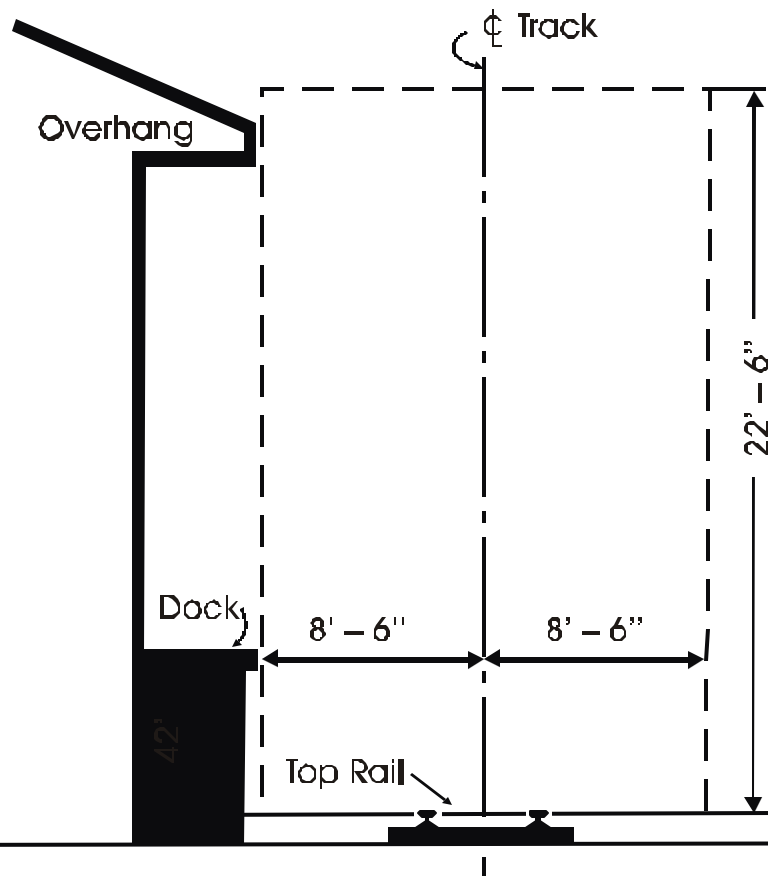
"TDD users can access the above number by calling the Michigan Relay Center at 1-800-3777."

Appendix 1

To comply with Michigan law
the safe space area must be
22'-6" verticle above top of rail
and 17' horizontal (8'-6" each
side of center line of track)



APPENDIX II



To comply with Michigan law overhead clearance from any obstruction must be 22'-6" above the top of rail and side clearances must be 8'-6" each side of center line of track.

APPLICATION FOR AUTHORITY FOR VARIANCE FROM STANDARD CLEARANCES

Application made and information required for authority to operate under clearance different from those prescribed in Act 354 of 1993.

INSTRUCTIONS: Complete one application per track. Attach three drawings and return to: Michigan Department of Transportation,
Freight Services and Safety Division, P.O. Box 30050, Lansing, MI 48909.

NAME OF FIRM/INDIVIDUAL

MAILING ADDRESS

Street

City

Zip Code

ADDRESS and LOCATION OF CLOSE CLEARANCE (If other than mailing address)

NAME OF CONTACT PERSON

PHONE NO.

NATURE OF BUSINESS

REASON FOR APPLICATION

TRACK NUMBER (One track only per application)

FILE NO. (Office Use Only)	OBSTRUCTION	DESCRIBE LOCATION OF OBSTRUCTION	SIDE CLEARANCE CENTER OF TRACK TO OBSTRUCTION	DIRECTION FROM CENTER OF TRACK	VERTICAL CLEARANCE ABOVE TOP OF RAIL

NAME OF OWNER OF TRACK

ADDRESS (If other than applicant)

RAILROAD(S) SERVING INDUSTRY

LENGTH OF TRACK(S)

DIRECTION OF TRACK(S)

BUMPING POST PROVIDED?

☐ Yes ☐ No

TYPE OF COMMODITY

☐ Loaded

☐ Unloaded

TYPE OF RAIL CAR(S) USED

☐ Box ☐ Gondola ☐ Covered Hopper ☐ High Cube ☐ Other (Describe):

APPLICANT NAME (Print or type)

TITLE

APPLICANT SIGNATURE

DATE